

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRIAN ARMON DUCKSWORTH,

Petitioner,

Case No. 21-cv-614-pp

v.

WARDEN LIZZIE TEGELS,

Respondent.

ORDER REQUIRING PETITIONER EITHER TO PAY FILING FEE OR FILE MOTION FOR LEAVE TO PROCEED WITHOUT PREPAYING FILING FEE

On May 17, 2021, the petitioner, who is incarcerated at Jackson Correctional Institution and is representing himself, filed a petition for writ of *habeas corpus* under 28 U.S.C. §2254 challenging his 2016 conviction in Outagamie County for attempted second-degree sexual assault, burglary, intimidation of a victim, strangulation and suffocation, false imprisonment, battery and disorderly conduct. Dkt. No. 1.

There is a \$5.00 fee for filing a *habeas* petition. 28 U.S.C. §1914(a). A court may authorize the commencement of a lawsuit without prepayment of the filing fee if the petitioner “submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor.” 28 U.S.C. §1915(a)(1). The petitioner has not paid the fee or filed a motion asking to proceed without prepaying the fee.

If the petitioner wishes to proceed with this case, by the end of the day on **June 24, 2022**, he either must (1) pay the \$5.00 filing fee or (2) file a motion asking for leave to proceed without prepaying that fee. The court will

send the petitioner a copy of this district's Prisoner Request to Proceed in District Court Without Prepaying the Full Filing Fee. If the court receives the filing fee, it will screen the petition under Rule 4 of the Rules Governing Section 2254 Cases. If the court receives a motion to proceed without prepaying the filing fee, it will decide whether the petitioner qualifies and, if so, will screen the petition.

The court **DIRECTS** the clerk to update the docket to reflect that Lizzie Tegels is the correct respondent.

The court **ORDERS** that by the end of the day on **June 24, 2022**, the court must receive from the petitioner the \$5.00 filing fee or a motion for leave to proceed without prepaying the filing fee. The petitioner must take one of those actions—pay the \$5.00 filing fee or file a motion for leave to proceed without prepaying it—in time for the court to *receive* the fee or the motion by the end of the day on June 24, 2022.

The court **ORDERS** that if it does not receive either the \$5.00 filing fee or a motion to proceed without prepaying the filing fee by the end of the day on June 24, 2022, the court will dismiss the petition for failure to follow the court's order and for failure to actively prosecute the petition. See Civil Local Rule 41(c) (E.D. Wis.).

Dated in Milwaukee, Wisconsin this 20th day of May, 2022.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge